

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA**

**UNITED STATES OF AMERICA,**

**Plaintiff,**

**VS.**

**JUAN P. SILVA,**

**Defendant.**

**CASE NO. 8:09CR63**

# MEMORANDUM AND ORDER

This matter is before the Court on the Defendant's appeal (Filing No. 54) from the Magistrate Judge's order (Filing No. 53) denying the Defendant's unopposed motion to continue trial.

Under 28 U.S.C. § 636(b)(1)(A) and NECrimR 57.2, the court has reviewed the order from which this appeal has been taken. In an appeal from a magistrate judge's order on a pretrial matter within 28 U.S.C. § 636(b)(1)(A), a district court may set aside any part of the magistrate judge's order shown to be clearly erroneous or contrary to law. 28 U.S.C. § 636(b)(1)(A); NECrimR 57.2(c).

Judge Gossett's order is not clearly erroneous or contrary to law. However, the trial will be continued.

IT IS ORDERED:

1. The Defendant's appeal from the Magistrate Judge's Order (Filing No. 54) is denied;
2. Trial is rescheduled to Tuesday, September 29, 2009;

3. The time between today's date and the trial is excluded for purposes of computing the limits under the Speedy Trial Act. The Court finds that the ends of justice served by the continuance outweigh the best interest of the public and the Defendant in a speedy trial and the failure to grant a continuance would result in a miscarriage of justice, 18 U.S.C. § 3161(h)(7)(A) & (B); and
4. A signed speedy trial affidavit must be filed immediately.

DATED this 31<sup>st</sup> day of August, 2009.

BY THE COURT:

s/Laurie Smith Camp  
United States District Judge